



**REPUBLIC OF KENYA**

**High Court at Machakos**

**Criminal Case 44 of 2009**

**REPUBLIC**

**VERSUS**

**RAPHAEL KIOKO MUASYA ..... ACCUSED**

**SENTENCE**

I have considered the circumstances of the case and the mitigating factors. Both the accused and the deceased were under the influence of alcohol when the incident occurred, which resulted in death of the deceased. The deceased provoked a situation by hitting the accused with a radio cassette player. The deceased was also abusive to the accused. The accused is a first offender. He is aged about 32 years. He has been in custody since 2009. He has pleaded guilty and has not wasted more of the court's time.

On the other hand, a life has been lost. The weapon and force used by the accused indicate that the attack on the deceased was vicious. An axe is not an ordinary item to be used in attacking somebody.

Weighing all the facts and circumstances, I sentence the accused to serve five (5) years imprisonment. He may appeal within 14 days.

Dated at Machakos this 7<sup>th</sup> day of **December** 2012.

**George Dulu**  
**Judge**

**In presence of:-**

Ms. Kwamboka for State

Mr Konya for Accused

Mutinda – Court clerk